

EXHIBIT E



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Transcript of Don Hayes, Individually

Date: December 12, 2024

Case: Goodrum -v- City of Alexandria

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Phone: 888.433.3767 | **Email:** transcripts@planetdepos.com

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1 mentioned something along the lines of Lieut. ?
2 Goodrum being a good fit for promotion because
3 of -- for diversity reasons?

4 A: Yes, I do.

5 Q: Tell me about that situation.

6 A: That was at a lieutenants meeting and
7 the question was asked to me basically, Chief
8 Hayes if it was your selection process who would
9 you pick? And I said I would pick Delton Goodrum.
10 And a response came back why, is it because he's
11 Black? And that's when I got into a dialog then
12 about no, because of diversity.

13 And then, I posed a question to them
14 that if Chief Brown was in that room with them and
15 say he would have chosen Steven Carr, would the
16 first thing come to your mind is because he's
17 White? And the room was silent.

18 Q: Following that lieutenant's meeting were
19 there any complaints made about what happened at
20 that meeting?

21 A: No complaints. But people were talking
22 to each other about it.

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1 Q: Do you recall anything about what people ?
2 were saying to each other to the extent that you
3 found out?

4 A: Well, they said that I was racist. And
5 that I was trying to start confusion because I was
6 bringing in race into my conversations. Something
7 to that -- I mean, not to be verbatim, but
8 something to that effect.

9 Q: Did anyone file anything like an EEOC
10 complaint?

11 A: No.

12 Q: Did you either know or hear that anyone
13 was considering filing an EEOC complaint?

14 A: No.

15 Q: Did that conversation play any role in
16 your future promotion decisions?

17 A: No.

18 Q: When you were asked in that lieutenant's
19 meeting and you -- about who you would promote and
20 you mentioned Lieut. Goodrum, why did you mention
21 Lieut. Goodrum?

22 A: Because I wanted to start the

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1 conversation. ?

2 Q: To start the conversation about what?

3 A: Because I knew why they were asking me.

4 And that was the answer they wanted and that

5 people don't want to talk about, but those

6 conversations need to be had as to why.

7 Q: When you made the comment about Lieut.

8 Goodrum in that lieutenants meeting did you feel

9 that Lieut. Goodrum was qualified to become a

10 captain?

11 A: Yes.

12 Q: Is there anything about Lieut. Goodrum's

13 career time at the department between when you

14 made that statement at the lieutenants meeting and

15 when you left the department that change your view

16 of Lieut. Goodrum?

17 A: Nothing changed my view of Lieut.

18 Goodrum. Things happened in that process that

19 made other people better qualified for the

20 selection.

21 Q: Okay. What sort of things?

22 A: Well, we just went through them. Again,

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1 they were a perfect fit for what I needed done in ?
2 the agency at that time.

3 Q: Was there anything with respect to
4 Lieut. Goodrum that you feel made him less
5 qualified than he was when you made that comment?

6 A: Well, yeah. The performance that he did
7 in the training section that I observed, a few
8 things that happened there. The process of a
9 second pick that again, there was an investigation
10 going on as that pick was being done.

11 Q: You mentioned observing things with
12 Lieut. Goodrum in what I will call the training
13 division, but I think you used a slightly
14 different term. What did you observe that
15 affected your position on his qualification to be
16 a captain?

17 A: Well, there were -- and there were --
18 let's say that there was a expectation in
19 recruiting that would have been a lot faster and
20 it didn't happen. And I know they refer to the
21 one memo that came up that kind of went through, I
22 guess the sergeant, the lieutenant, Ms. Shawndell,

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1 (phonetic) even McCarty, that should have never ?
2 hit my desk. It came through.

3 And when I sent it back down to find out
4 what was going on, months later I go and directly
5 ask him about the memo and he had no recollection
6 of what I was talking about. It was things like
7 that where, for a unit as important as that one
8 was for recruiting I expected a lot more.

9 Q: Do you recall approximately when those
10 conversations were?

11 A: No, I don't.

12 Q: Do you recall if it was close to the
13 time when you left the department?

14 A: Oh no, it wasn't close to that because I
15 didn't leave right away after that.

16 Q: Do you recall if it was after you became
17 captain -- or sorry chief, rather than acting
18 chief?

19 A: No, I was chief.

20 Q: So it was some point in time when you
21 were chief and before you left the department
22 which would be approximately April of 2022 to 2024

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1 when you left? ?

2 A: Yes. Yeah.

3 Q: And you said that whenever it was it
4 wasn't close to the time when you left?

5 A: No. Again, I think it was, again, after
6 placing him in that position I think, again, my
7 timeframe six months later is when I made the
8 decision to take him out of that position.

9 Q: So whenever that conversation was it was
10 within the --

11 A: Within that six months timeframe. Yes.

12 Q: Gotcha. Do your understanding, what
13 were the difficulties in recruiting at that time?

14 A: I didn't get into the nuts and bolts of
15 it. I don't know what was going on, I just know
16 they were -- that people weren't being recruited.

17 Q: 2022, it did -- to your understanding,
18 did Covid affect recruitment?

19 A: Yeah, it could have. I don't even
20 know -- I'm being honest with you, Covid came in
21 '90 -- I mean, not '90. 2000, right?

22 Q: Covid started in earnest in March or

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1 April 2020. ?

2 A: 2020. Yeah, 2020. Yeah, when I say
3 2000 and 20, yeah, 2020. Yeah. And so you're
4 talking about two years later. I mean Covid
5 affected it. The George Floyd situation affected
6 it. A lot of things affected it. But we still
7 have to do our job.

8 Q: Absolutely. Do you recall around that
9 time how many people you wanted to see recruited
10 sort of over different periods of time?

11 A: I was trying to put at least 30 in the
12 academy.

13 Q: During your tenure as chief, typically,
14 how many people were sent to the academy?

15 A: Probably 20 so, 23, 24.

16 Q: During Lieut. Goodrum's tenure in charge
17 of that department do you recall approximately how
18 many people went to the academy, not in total, but
19 in the same terms we've been talking about?

20 A: Probably, I would say 10 to 15. I'm
21 guessing. I don't know, I really don't know that
22 answer.

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1 Q: Now as a policy matter, do you limit the ?
2 number of -- or does the department limit the
3 number of people that can go to the academy based
4 on the number of open positions that you have?

5 A: We do, yes.

6 Q: So at the time when you were saying that
7 you wanted 30 people to go to the academy, you had
8 30 open positions?

9 A: Yes.

10 Q: And with respect to Lieut. Goodrum
11 specifically, I know we've talked about you being
12 concerned about the results, did you have any
13 particular criticism of what he was actually
14 doing?

15 A: I guess my criticism is what he wasn't
16 doing.

17 Q: What was your criticism related to what
18 he wasn't doing?

19 A: I was looking for input. I was looking
20 for innovation. I was looking for motivation and
21 I saw none of that.

22 Q: Why do you say that Lieut. Goodrum

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1 wasn't motivated? ?

2 A: Well, because things weren't happening.
3 And when I replaced him with another person things
4 began to happen.

5 Q: Who was that person?

6 A: Marcus Downey.

7 Q: Was that --

8 A: Excuse me. At nighttime my head's kind
9 of clogged up.

10 Q: No problem.

11 A: I'm sorry about that.

12 Q: When you mentioned replacing him with
13 Downey, was that the period during which Downey
14 was an acting captain?

15 A: No.

16 Q: Different period?

17 A: Different period.

18 Q: You mentioned investigations earlier.
19 Was Lieut. Goodrum under investigation when you
20 made the promotional decision that led to Downey
21 and Newcomb, being promoted?

22 A: Newcomb, yes.

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1 is --

2 MR. PORTER: Go to your Exhibit 7.

3 MR. ERLICH: Oh, I don't know if he has
4 it because I've got the marked one.

5 (Crosstalk)

6 MR. PORTER: Here you go. That's before
7 his -- okay.

8 Q: Chief Hayes, could you describe this
9 document for me?

10 A: Yes. This is the document that Chief
11 Brown wrote finalizing the categories for those
12 who took the process.

13 Q: Now you described a moment ago a point
14 at which categories were no longer used.

15 A: Correct.

16 Q: And I believe you said that happened
17 prior to the promotional process.

18 A: No, prior to the promotions.

19 Q: Prior to the actual promotions, okay.
20 So this list was created, to my understanding, by
21 human resources.

22 A: Yes. ?

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1 MR. CALES: Do you mean to say you say ?
2 deputy chiefs?

3 THE WITNESS: Assistant Chiefs.

4 MR. CALES: I'm sorry, assistant Chiefs.

5 THE WITNESS: We had three assistant
6 Chiefs.

7 Q: With respect to the three assistant
8 Chiefs --

9 A: Yes.

10 Q: -- were those individuals all White?

11 A: No.

12 Q: What were their races?

13 A: A Black male, a Hispanic male, and a
14 Black female.

15 Q: After that lieutenant meeting that we
16 discussed earlier, did you apologize to anyone who
17 was there?

18 A: No, I didn't apologize to anyone.

19 Q: Do you recall if Lieut. Newcomb filed a
20 grievance at some point?

21 A: No, I don't.

22 MR. ERLICH: As my intrepid co-counsel

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1 points out again I did ask another bad question. ?

2 Q: Did Lieut. Newcomb file a grievance at
3 any point?

4 A: I don't recall

5 Q: Do you think in that lieutenants meeting
6 mentioning Lieut. Goodrum specifically, to your
7 knowledge did that create any backlash against
8 Lieut. Goodrum?

9 A: Not that I know of.

10 MR. ERLICH: Okay. Let's go off the
11 record.

12 (Whereupon a recess was taken at 7:10
13 p.m., resuming at 7:24 p.m.)

14 BY MR. ERLICH:

15 Q: Chief Hayes, again I'm going to attempt
16 to do this as efficiently as possible, we have
17 these documents regarding the numerical rankings,
18 or the numerical scores I should say, that your
19 counsel, Mr. Porter provided to us this morning.

20 When you were making the decision, the
21 promotional decisions with respect to Ballantine,
22 Newcomb, and North, did you consider these scores

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1 at all? ?

2 A: No.

3 Q: So without -- with you saying you didn't
4 consider those scores I'm not going to take our
5 time to go through them.

6 MR. ERLICH: Okay, we're going to go
7 back to Exhibit 8. I will hand you this and I'll
8 tell you all it is City Docs 1920, the Milner
9 candidate feedback report.

10 Q: Chief Hayes, can you identify this
11 document?

12 A: No, I cannot.

13 Q: Have you ever seen this document before?

14 A: I have not.

15 Q: Let me ask you the limited question
16 then; we've seen the promotional list that came
17 from the 2020 process although I understand that
18 you were not chief at the time.

19 A: Right.

20 Q: Do you have any information to indicate
21 why Edward Milner received -- was subject to a
22 candidate feedback report but is not ultimately on

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1 the list? ?

2 A: No, I do not.

3 Q: Okay. Fair enough.

4 After the lieutenants meeting that we
5 discussed, and you said clearly that you did not
6 apologize to anyone.

7 A: Correct.

8 Q: Did you have meetings -- after that
9 lieutenants meeting did you have meetings or
10 conversations with any of the people in the room
11 to discuss what had been said in the room?

12 A: Yes, I did.

13 Q: Who did you have a meeting or
14 conversation with?

15 A: I don't remember all of the names, but I
16 went to the lieutenants that were in the meeting,
17 and I believe it was Monica Lisle came and talked
18 to me about what was happening in the department.
19 And so I went and talked to a few of the
20 lieutenants to see if they had any questions,
21 needed clarification.

22 And for the most part they said to me,

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1 Chief, you don't have to explain to us. We knew ?
2 what you meant. Certain people were just trying
3 to make an issue out of it but we knew what you
4 meant. And that's how the conversations went.

5 Q: Now, you mentioned Monica something.

6 A: Yes.

7 Q: What was her last name?

8 A: Lisle.

9 Q: Could you spell it for us?

10 A: L-I-S-L-E.

11 Q: So tell me about the conversation when
12 she came to talk to you about what was going on
13 with respect to the lieutenants meeting?

14 A: She just asked me what did I do, what
15 was going on. She said because people are calling
16 me a racist, and things like that.

17 Q: And when you talked to the lieutenants
18 who were at that meeting subsequently, did you
19 meet them as a group or did you meet --

20 A: No.

21 Q: -- them one by one?

22 A: I just went by the offices and just,

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1 hey, you know, you got any questions about the ?
2 meeting we had, and I don't recall actually
3 sitting down and having a long conversation with
4 any of them because nobody had any questions about
5 it.

6 Q: Now remind me, was Lieut. Goodrum in
7 that meeting?

8 A: Yes, he was.

9 Q: Okay. Did you speak to Lieut. Goodrum
10 when you were speaking to other lieutenants?

11 A: No, I did not.

12 Q: Why didn't you speak to Lieut. Goodrum?

13 A: Because I don't think he had a problem
14 with the meeting.

15 MR. ERLICH: Mr. Court Reporter, if you
16 could mark this? And gentlemen, this is City Docs
17 457.

18 MR. PORTER: What's the exhibit number?

19 MR. ERLICH: 18.

20 (Whereupon Exhibit 18 was marked for
21 identification.)

22 Q: Chief Hayes, do you recognize this

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1 document? ?

2 A: I do.

3 Q: What is this document?

4 A: My affidavit.

5 Q: For -- on what -- what was the occasion
6 for you to sign an affidavit?

7 A: It says, Plaintiff Delton Goodrum, U.S.
8 Equal Employment Opportunities Commission.

9 Q: I just want -- the only question I have
10 about this is if you could read it and tell me if
11 there's anything in this that you no longer agree
12 with, that is not accurate sitting here today.

13 A: No, it's fine.

14 Q: All right. Now, if I remember
15 correctly, just a little while ago you testified
16 that during your tenure as chief and acting chief,
17 and there was only, I think, one complaint of
18 discrimination and you explained what that was
19 with respect to the woman who had been moved for
20 90 days and then wanted to stay there permanently?

21 A: Yes, that's one I remember.

22 Q: Were there any others?